

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 07-
v.	:	DATE FILED: November 27, 2007
JAMES J. BAUER	:	VIOLATIONS:
BRIAN K. FORREST	:	18 U.S.C. § 371 (conspiracy - 1 count)
	:	18 U.S.C. § 201(c)(1)(A) (giving an illegal gratuity - 1 count)
	:	18 U.S.C. § 201(c)(1)(B) (receipt of an illegal gratuity - 1 count)
	:	18 U.S.C. § 1001(a)(1) (making a false statement to a federal agent - 1 count)
	:	26 U.S.C. § 7202 (failing to withhold, account for, and pay federal withholding taxes – 8 counts)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

1. The United States Postal Service (“USPS”) owned and maintained thousands of vehicles in the Eastern District of Pennsylvania which it used to deliver mail and for other matters. The USPS maintained several facilities in the area to repair and maintain the vehicles called Vehicle Maintenance Facilities (“VMFs”) which were staffed with mechanics, automotive technicians, procurement officials, and others.

2. Periodically, the USPS trained its procurement officials in ethical behavior, instructing them that they were not permitted to demand or receive things of value from vendors doing business with the USPS. This was so that USPS procurement officials acted

solely in the best interests of the USPS in awarding contracts and other work and did not make procurement decisions to benefit themselves.

3. Defendant JAMES J. BAUER owned and operated a business called JB Auto Repair and Restoration, a sole proprietorship, which performed automobile body repair and painting on vehicles owned by the United States Postal Service (“USPS”) in the Philadelphia area. Approximately eighty to ninety percent of defendant BAUER’s business income came from work performed for the USPS.

4. For approximately 19 years, defendant BRIAN K. FORREST was employed in various capacities by the USPS. Between 2003 and February 2007, defendant FORREST was employed as a lead automotive technician at a USPS Vehicle Maintenance Facility (“VMF”) in North Philadelphia. Defendant FORREST’s duties included, among others, deciding whether USPS employees should repair damaged vehicles or whether that repair should be performed by an outside vendor. In total, defendant FORREST was responsible for awarding hundreds of thousands of dollars worth of vehicle body repair and painting work to outside vendors. From time to time, defendant FORREST attended ethics training provided by the USPS, including in November 2004, which advised that procurement officials like defendant FORREST were not permitted to accept things of value from individuals or entities doing business with the USPS.

THE CONSPIRACY

5. From at least in or the beginning of 2005 and continuing through at least on or about February 9, 2006, in the Eastern District of Pennsylvania and elsewhere, defendants

JAMES J. BAUER

**and
BRIAN K. FORREST**

conspired and agreed with each other, and others known and unknown to the grand jury to: (a) directly or indirectly give, offer, promise things of value to a public official for or because of official acts performed or to be performed by the public official; and (b) on the part of a public official, directly or indirectly demand, seek, receive, accept, agree to receive or accept a thing of value for or because of any official act performed or to be performed by a public official, in violation of Title 18, United States Code, Section 201(c)(1)(A) and (B).

MANNER AND MEANS

6. It was part of the conspiracy that defendant JAMES J. BAUER provided things of value, such as an all-expenses paid trip to Las Vegas, Nevada, and other things, to defendant BRIAN K. FORREST at the same time that defendant BAUER obtained more than \$1.5 million worth of vehicle body repair and painting work from the USPS which was awarded by defendant FORREST and others.

OVERT ACTS

_____ In furtherance of the conspiracy, defendants JAMES J. BAUER and BRIAN K. FORREST, and others known and unknown to the grand jury, committed the following overt acts, among others, in the Eastern District of Pennsylvania and elsewhere:

_____ 1. Beginning in approximately early 2005, defendant BRIAN K. FORREST agreed to provide vehicle body repair and painting work to defendant JAMES J. BAUER.

2. In or about the Summer 2005, defendant JAMES J. BAUER gave a set of four Michelin tires to defendant BRIAN K. FORREST for use on defendant FORREST's Ford

Taurus. Defendant BAUER gave the tires to defendant FORREST because defendant FORREST had awarded hundreds of thousands of dollars of vehicle maintenance and painting work to defendant BAUER.

3. In or about August 2005, defendant JAMES J. BAUER agreed to take defendant BRIAN K. FORREST, defendant FORREST's wife, and two of defendant FORREST's friends on an all-expense-paid trip to Las Vegas, Nevada. Defendant BAUER agreed to take FORREST, FORREST's wife, and FORREST's friends on the trip because defendant FORREST had awarded hundreds of thousands of dollars of vehicle maintenance and painting work to defendant BAUER and would continue to do so.

4. On or about August 11, 2005, defendant JAMES J. BAUER caused to be purchased six round-trip airline tickets from Philadelphia International Airport to Las Vegas, Nevada. The tickets were for defendant BAUER and his wife, defendant BRIAN K. FORREST and his wife, and two friends of defendant FORREST. Defendant BAUER told defendant FORREST and FORREST's friends that he would pay for the tickets or any expenses associated with the trip.

5. On or about November 3, 2005, defendant JAMES J. BAUER arranged for limousines to take defendant BAUER and his wife, defendant BRIAN K. FORREST and his wife, and FORREST's friends to the Philadelphia International Airport for the flight to Las Vegas and from the airport in Las Vegas, Nevada, to the Mandalay Bay Hotel and Casino where the party stayed during their trip.

6. While in Las Vegas, defendant JAMES J. BAUER arranged for and paid for virtually all of the meals of the party at a cost to him of several hundred dollars. Defendant

BAUER also arranged that other meals and entertainment expenses be “comped” by the Mandalay Bay Hotel and Casino so that neither he nor defendant BRIAN K. FORREST or any other member of the party would have to pay for them.

7. On or about November 6, 2005, the limousine that defendant JAMES J. BAUER arranged for took the party, including defendant BRIAN K. FORREST from the Mandalay Bay Hotel and Casino to the airport in Las Vegas for the return flight to Philadelphia International Airport.

8. Defendants JAMES J. BAUER and BRIAN K. FORREST intentionally failed to disclose to anyone at the USPS that defendant BAUER had provided an all-expense-paid trip to Las Vegas, Nevada, to defendant FORREST and the others.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about November 3 and 6, 2005, in the Eastern District of Pennsylvania and elsewhere, defendant

JAMES J. BAUER

knowingly and intentionally directly or indirectly gave, offered, and promised a thing of value, that is, an all-expense-paid trip to Las Vegas, Nevada, to a public official, that is Brian K. Forrest, for or because of any official act performed or to be performed by Forrest, that is the awarding of United States Postal Service vehicle maintenance and painting work to defendant BAUER.

In violation of Title 18, United States Code, Section 201(c)(1)(A).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about November 3 and 6, 2005, in the Eastern District of Pennsylvania and elsewhere, defendant

BRIAN K. FORREST,

being a public official, knowingly and intentionally directly or indirectly demanded, sought, received, accepted, or agreed to accept or receive a thing of value, that is an all-expense-paid trip to Las Vegas, Nevada, for or because of any official act performed or to be performed by defendant FORREST, that is the awarding of United States Postal Service vehicle maintenance and painting work to James J. Bauer Sr.

In violation of Title 18, United States Code, Section 201(c)(1)(B).

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs One through Three and Five and Overt Acts One through Eight of Count One are incorporated by reference.

2. On or about February 7, 2006, in the Eastern District of Pennsylvania, defendant

JAMES J. BAUER

in a matter within the jurisdiction of the United States Postal Service, Office of Inspector General, an agency of the executive branch of the United States, knowingly and willfully made materially false, fictitious, and fraudulent statements and representations, and concealed and covered up by trick, scheme, and device a material fact, in that defendant BAUER claimed that Brian K. Forrest and a friend of Brian K. Forrest had reimbursed him in cash for airline tickets to Las Vegas, Nevada, prior to November 2005 that defendant BAUER had purchased for Forrest and Forrest's friends, and concealed and covered up the fact that defendant BAUER had paid for the tickets and not been reimbursed by Forrest or Forrest's friends, when, as defendant BAUER knew, he had paid in full for the airline tickets himself and had not been reimbursed for them.

In violation of Title 18, United States Code, Section 1001.

COUNTS FIVE THROUGH TWELVE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs One through Three and Five and Overt Acts One through Eight of Count One are incorporated by reference.

2. Defendant JAMES J. BAUER was the owner, manager, and operator of JB Auto Repair and Restoration, which was located in Glenolden, Pennsylvania, and in Collingdale, Pennsylvania.

3. As an employer, defendant JAMES J. BAUER was required by federal law to collect, truthfully account for, and pay over to the United States, certain payroll taxes, including his employees' federal income tax ("FIT") withholdings and Federal Insurance Contribution Act taxes ("FICA"), that is, social security and medicare taxes. Defendant BAUER was also required by federal law to pay over to the United States from his own funds a matching amount of the FICA taxes for each employee.

4. Federal law also required defendant JAMES J. BAUER to report the FIT and FICA withholdings on his quarterly corporate income tax returns, Internal Revenue Service Form 941. For the calendar years 2001 through 2005, defendant BAUER paid his employees in cash and intentionally failed to account for, withhold, or report these payroll taxes as required by law.

5. On or about the dates listed below, in the Eastern District of Pennsylvania, defendant

JAMES J. BAUER

willfully failed to collect, truthfully account for, and pay over to the United States a total of more than \$50,000, that is, his cash payroll employees' federal income tax ("FIT") and social security

and medicare taxes (“FICA”), and his employer’s matching share of the employees’ social security and medicare taxes, in the approximate amounts more fully described below:

COUNT	DATE	FIT	EMPLOYEE FICA	EMPLOYER FICA
5	3/2004	\$ 997	\$ 545	\$ 545
6	6/2004	997	545	545
7	9/2004	997	545	545
8	12/2004	997	545	545
9	3/2005	3,555	1,942	1,942
10	6/2005	7,202	3,935	3,935
11	9/2005	8,114	4,434	4,434
12	12/2005	4,902	2,679	2,679

All in violation of Title 26, United States Code, Section 7202.

A TRUE BILL:

GRAND JURY FOREPERSON

PATRICK L. MEEHAN
United States Attorney